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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CHOI, PETER H

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/943,841	Applicant(s) BADURA ET AL.	
	Examiner Peter Choi	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-10, 12-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 12-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/31/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 5, 8, 12, 14, and 18 have been amended. Claims 4, 11, and 17 have been canceled. Claims 1-3, 5-10, 12-16, and 18-20 are pending in the instant application. The following is a **FINAL** action on all pending claims.

Drawings

2. In light of amendments to the specification, drawing objections are withdrawn.

Claim Rejections - 35 USC § 101

3. The rejection of claims 10-13 raised under 35 USC § 101 are withdrawn.

Response to Arguments

4. Applicant's arguments with respect to claims 1-3, 5-10, 12-16, and 18-20 have been considered but are moot in view of the new ground(s) of rejection.

The Examiner notes that Applicant did not challenge Official Notice taken in the Office Action mailed August 11, 2005. Therefore, it has been admitted as prior art that:

- The use of communication media is within the level of ordinary skill in the business field and is a preference that the supplier can make based on its corporate strategy
- Cost-benefit analysis is common in the business field to aid in the decision-making process of an organization

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1-3, 5-10, 12-16, and 18-20 rejected under 35 U.S.C. 102(e) as being anticipated by Marsh et al. (U.S Patent #6,681,106).

As per claim 1, Marsh et al. teaches a method of selecting from a plurality of communication arrangements comprising:

(a) inputting a first party's ability to communicate with a second party (**data regarding a given cellular account, subscriber, or group of subscribers if the service is provided for a corporate customer, is provided by a carrier; optimizer process receives as input the various service plans, service plan packages, and coverage areas offered by various carriers and that are associated with each service plan package**) [Column 7, lines 15-17, Column 16, line 60 – Column 17, line 1];

(b) evaluating a cost effectiveness of a communication arrangement based on said first party's ability to communicate (**MAMBA system provides an analysis of periodically loaded wireless service usage of a given account or subscriber, and/or group of accounts or subscribers, and determines whether or not that subscriber, or group of subscribers, is on the optimal wireless service plan according to the particular subscriber's usage patterns across a variable number of service billing periods**) [Column 8, lines 54-62], said evaluating comprising:

(i) inputting said first party's ability into a decision tree **{although not described as a "decision tree", decision points 1498, 1501, 1504, 1512, 1519, 1523, 1526, 1529, and 1532 determine whether current savings of different package types are greater than max savings, performing the same functionality as a "decision tree", by providing decision modules with consequences (if YES, then save current savings; if NO, then move to next package type)}** [Figures 34A, 35A];

(ii) determining a cost of establishing and maintaining said communication arrangement (**calculate the cost of each service plan package combination for the given user usage profile**) [Column 8, lines 37-40];

(iii) determining a savings associated with said communication arrangement (**if the savings is sufficient (efficiency > 1.x), where x is the historical percentage savings, then change plans; determine how much package saves against current base package cost**) [Column 23, lines 50-52, Column 34, lines 65-67, Figure 35B]; and

(iv) comparing said cost to said savings to calculate a return on investment associated with said establishing and said maintaining of said communication arrangement (**relative attractiveness of a service plan instance is determined by comparing it to the corresponding actual billed usage of the current service plan for the given period; the specific measure, termed "efficiency", is calculated as current plan costs/service plan instance estimated cost; if the efficiency factor is greater than 1, then the service plan instance is more cost effective than the other plan**) [Column 18, lines 34-45];

(c) repeating said evaluating for a different communication arrangement if said first party's ability does not match a communication arrangement previously evaluated (**MAMBA system then repeats the logical steps (load data, create a calling profile, identify optimal service plan options, make recommendations as to the best service plan and options) in accordance with a predefined periodic basis**) [Column 7, lines 31-33]; and

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(d) implementing a communication arrangement when said first party's ability matches a communication arrangement **(if there is a more optimal plan, then change plans)** [Column 23, lines 50-52].

As per claim 2, Marsh et al. teaches the method in claim 1, wherein said communication arrangements comprise a purchase order and billing communications between a purchasing corporation and a supplier **{calling package being a communications service "ordered" and billed for}** [abstract].

As per claim 3, Marsh et al teaches the method in claim 2, wherein said first party comprises said supplier **(telecommunications service providers)** and said second party comprises said purchasing corporation **(subscriber of a telecommunications service)** [abstract].

As per claim 5, Marsh et al teaches the method in claim 1, wherein said decision tree orders communication arrangements that are evaluated by their cost effectiveness to the second party **{listing of historical prediction model efficiency of Plans A-E, along with Current Plan}** [Tables 7-8].

As per claim 6, Marsh et al. teaches the method in claim 1, further comprising before said implementing, performing a cost-benefit analysis **(calculate "efficiency" of**

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each service plan instance to determine relative attractiveness) with respect to a communication arrangement matching said first parties ability [Column 18, lines 15-44].

As per claim 7, Marsh et al. teaches the method in claim 6, wherein said cost-benefit analysis compares the cost of establishing communication arrangement to the cost of a next communication arrangement **{listing of historical prediction model cost of Plans A-E, along with Current Plan}** [Tables 7-8].

Claims 8-10, 12-16, and 18-20 recite limitations already addressed by the rejection of claims 1-6 above; therefore, the same rejections apply.

The current service plan instance is taken to represent a “standard” communication arrangement, and each of a plurality of alternative service plans constitutes a “non-standard” communication arrangement.

Alternative (i.e. “non-standard”) communication arrangements are implemented when proven to be more “efficient” (calculated by current plan costs/service plan instance estimated cost), and yield more cost savings than the current communication arrangement.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Marsh et al. (PGPub 20020026341) teaches a system and method for determining optimal wireless communication service plans based on historical projection analysis.

Ulwick (U.S Patent #5,963,910) teaches a computer based process for strategy evaluation and optimization based on customer desired outcomes and predictive metrics. Data processing means quantifies the degree to which each of said metrics predict satisfaction of each of said customer desired outcomes.

Case et al. (U.S Patent #5,734,890) teaches a system and method for analyzing procurement decisions and customer satisfaction. At least two alternatives are analyzed based upon a plurality of criteria, and provide a guide for optimal allocation of resources to influence the outcome of a decision.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pc

April 17, 2006

Peter Choi
Examiner
Art Unit 3623


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